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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,586

02/20/2004

Charles Randall Yates

2002-051

7723

54472

7590

08/30/2006

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EXAMINER

FOX, BRYAN J

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/783,586

Applicant(s)

YATES ET AL.

Examiner

Bryan J. Fox

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 and 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

The previous Office Action is Vacated. This action will replace the previous Office Action and restart the time period for reply.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-9, 11-17, 19, 20 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey in view of Chandhok et al (WO 2004012421).

Regarding **claim 1**, Hendrey et al disclose a system where a user initiates a group connection via a communication infrastructure (see paragraphs 49-50), which reads on the claimed, "controller in a wireless network for establishing a local ad hoc group session between an inviting mobile terminal and local mobile terminals." The telecommunication infrastructure may determine the distances of mobiles from a list and initiate the telephone call with the mobiles within a certain distance (see paragraphs 49-

54), which reads on the claimed, "presence server for identifying local mobile terminals within a local area of the inviting mobile terminal," and, "server for establishing the local ad hoc group session between the inviting mobile terminal and one or more local mobile terminals responsive to a request from the inviting mobile terminal." Hendrey et al fail to disclose the use of push-to-talk.

In a similar field of endeavor, Chandhok et al disclose a group server that may allow one user to communicate in half-duplex mode where permission to talk may be moderated by the infrastructure and a user may request permission to talk by pressing a "push-to-talk" button (see paragraph 30).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Hendrey et al with Chandhok et al to include the above push-to-talk functionality in order to take advantages of a PTT system, such as quickness and spontaneity without going through a typical dialing and ringing sequence as suggested by Chandhok et al (see paragraph 4).

Regarding **claim 2**, the combination of Hendrey et al and Chandhok et al disclose that if there are a plurality of callees meeting the criteria, a conference connection may be initiated by TU 201 using techniques well known in the art, or alternatively, instead of the TU initiating the connections, the telecommunication infrastructure may initiate any group connections (see Hendrey et al paragraph 52), which reads on the claimed, "the push-to-talk server sends an invite message to local mobile terminals identified by the presence server and establishes the local ad hoc

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group session between the inviting mobile terminal and one or more local mobile terminals that respond to the invite message.”

Regarding **claim 3**, the combination of Hendrey et al and Chandhok et al disclose that the TU 201 may transmit a group identifier to customer information database 105 to select a predetermined group list 220 to use, and the infrastructure determines the locations of all group members and initiates a connection with the closest members (see Hendrey et al paragraph 59-64), which reads on the claimed, “core server that receives the request from the inviting mobile terminal and forwards a list of the local mobile terminals identified by the presence server to the push-to-talk server.”

Regarding **claim 4**, the combination of Hendrey et al and Chandhok et al disclose the use of a list of phone numbers that are filtered to find the nearest of that list (see Hendrey et al paragraphs 50-52), which reads on the claimed, “group server to filter a list of mobile terminals based on at least one of a media type restriction and an access control restriction to identify preferred local mobile terminals.”

Regarding **claim 5**, the combination of Hendrey et al and Chandhok et al disclose if one or more of the closest members of the group list cannot be connected, then additional callees are added to the connection until a desired number of callees is reached and stay in the multi-party connection (see Hendrey et al paragraph 55), which reads on the claimed, “the push-to-talk server sends an invite message to each of the preferred local mobile terminals and establishes the local ad hoc group session

between the inviting mobile terminal and one or more of the preferred local mobile terminals that respond to the invite message,” wherein initiating the connection reads on inviting and establishing the connection reads on the response.

Regarding **claim 6**, the combination of Hendrey et al and Chandhok et al disclose that the invention may connect proximately located telecommunications users based in part on distance and in part on a profile associated with each user (see Hendrey et al paragraph 65) and the profile may contain information about likes and dislikes (see Hendrey et al paragraph 66), which reads on the claimed, “the group server further filters the local mobile terminals based on a subject of interest identified by the inviting mobile terminal.”

Regarding **claim 7**, the combination of Hendrey et al and Chandhok et al disclose that in one embodiment, the distances between mobiles may be actual travel distances taking into account walking the perimeter of city blocks when a map is available (see Hendrey et al paragraph 56), which reads on the claimed, “the presence server determines a current location of the inviting mobile terminal,” wherein the location of the mobile terminal must be determined in order to use a map.

Regarding **claim 8**, the combination of Hendrey et al and Chandhok et al disclose the distance from the inviting mobile is used (see Hendrey et al paragraphs 49-55), which reads on the claimed, “the presence server defines the local area based on the current location of the inviting mobile terminal.”

Regarding **claim 9**, the combination of Hendrey et al and Chandhok et al disclose that the user may select a predetermined maximum connection distance (see Hendrey et al paragraph 49), which reads on the claimed, "the presence server receives a defined local area from the inviting mobile."

Regarding **claim 11**, the combination of Hendrey et al and Chandhok et al disclose the telecommunications infrastructure may select users who are within a predefined distance of the TU 201 (see Hendrey et al paragraph 51), which reads on the claimed, "the presence server identifies local mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals within a defined distance of the inviting mobile terminal."

Regarding **claim 12**, the combination of Hendrey et al and Chandhok et al disclose that the infrastructure determines the locations of all group members and stores them locally in group list 220, and this information may be continually updated (see Hendrey et al paragraph 61), which reads on the claimed, "memory for dynamically storing groups and dynamically storing updated lists of local mobile terminals within the local area of the inviting mobile terminal."

Regarding **claim 13**, Hendrey et al disclose a system where a user initiates a group connection via a communication infrastructure (see paragraphs 49-50), which reads on the claimed, "method of establishing a local ad hoc group session in a wireless network between an inviting mobile terminal and local mobile terminals." The telecommunication infrastructure may determine the distances of mobiles from a list and

initiate the telephone call with the mobiles within a certain distance (see paragraphs 49-54), which reads on the claimed, "receiving a request to initiate the local ad hoc group session...from the inviting mobile terminal; using a presence server...to identify local mobile terminals within a local area of the inviting mobile terminal; establishing the local ad hoc group session between the inviting mobile terminal and one or more of the local mobile terminals." Hendrey et al fail to disclose the use of push-to-talk.

In a similar field of endeavor, Chandhok et al disclose a group server that may allow one user to communicate in half-duplex mode where permission to talk may be moderated by the infrastructure and a user may request permission to talk by pressing a "push-to-talk" button (see paragraph 30).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Hendrey et al with Chandhok et al to include the above push-to-talk functionality in order to take advantages of a PTT system, such as quickness and spontaneity without going through a typical dialing and ringing sequence as suggested by Chandhok et al (see paragraph 4).

Regarding **claim 14**, the combination of Hendrey et al and Chandhok et al disclose that if there are a plurality of callees meeting the criteria, a conference connection may be initiated by TU 201 using techniques well known in the art, or alternatively, instead of the TU initiating the connections, the telecommunication infrastructure may initiate any group connections (see Hendrey et al paragraph 52), which reads on the claimed, "sending an invite message to local mobile terminals within



the local area of the inviting mobile terminal; and establishing the local ad hoc group session between the inviting mobile terminal and one or more of the local mobile terminals that respond to the invite message.”

Regarding **claim 15**, the combination of Hendrey et al and Chandhok et al disclose the use of a list of phone numbers that are filtered to find the nearest of that list (see Hendrey et al paragraphs 50-52), which reads on the claimed, “identifying preferred local mobile terminals by filtering a list of local mobile terminals within the local area of the inviting mobile terminal based on at least one of a media type restriction and an access control restriction.”

Regarding **claim 16**, the combination of Hendrey et al and Chandhok et al disclose if one or more of the closest members of the group list cannot be connected, then additional callees are added to the connection until a desired number of callees is reached and stay in the multi-party connection (see Hendrey et al paragraph 55), which reads on the claimed, “sending an invite message to one or more preferred local mobile terminals; establishing the local ad hoc group session between the inviting mobile terminal and preferred local mobile terminals that respond to the invite message,” wherein initiating the connection reads on inviting and establishing the connection reads on the response.

Regarding **claim 17**, the combination of Hendrey et al and Chandhok et al disclose that the invention may connect proximately located telecommunications users based in part on distance and in part on a profile associated with each user (see

Hendrey et al paragraph 65) and the profile may contain information about likes and dislikes (see Hendrey et al paragraph 66), which reads on the claimed, "filter the list of local mobile terminals within the local area of the inviting mobile terminal based on a subject of interest identified by the inviting mobile terminal."

Regarding **claim 19**, the combination of Hendrey et al and Chandhok et al disclose the distance from the inviting mobile is used (see Hendrey et al paragraphs 49-55), which reads on the claimed, "identify local mobile terminals within a local area of the inviting mobile terminal," and, "identifying local mobile terminals within a defined distance of the inviting mobile terminal."

Regarding **claim 20**, the combination of Hendrey et al and Chandhok et al disclose that the infrastructure determines the locations of all group members and stores them locally in group list 220, and this information may be continually updated (see Hendrey et al paragraph 61), which reads on the claimed, "storing and dynamically updating groups of local mobile terminals within one or more local areas of the inviting mobile terminal."

Regarding **claim 37**, Hendrey et al disclose a system where a user initiates a group connection via a communication infrastructure (see paragraphs 49-50), which reads on the claimed, "controller in a wireless network for establishing a...communication session between an inviting mobile terminal and local mobile terminals." The telecommunication infrastructure may determine the distances of mobiles from a list and initiate the telephone call with the mobiles within a certain

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distance (see paragraphs 49-54), which reads on the claimed, "presence server for identifying one or more local mobile terminals within a local area of the inviting mobile terminal," and, "group server configured to...create an ad hoc group including the inviting mobile terminal and one or more local mobile terminals," and, "server for establishing the local ad hoc group session between the inviting mobile terminal and one or more local mobile terminals responsive to a request from the inviting mobile terminal." Hendrey et al fail to disclose the use of push-to-talk or filtering the local mobile terminals based on a media type restriction identified by the inviting mobile terminal.

In a similar field of endeavor, Chandhok et al disclose a group server that may allow one user to communicate in half-duplex mode where permission to talk may be moderated by the infrastructure and a user may request permission to talk by pressing a "push-to-talk" button (see paragraph 30). Further, a user who wishes to join a group of providers for a desired service may select the desired service category, which may include Internet services, such as Internet chat room, and data services, e.g. subscription information publishing services (see paragraph 33), which reads on the claimed, "filtering the local mobile terminals based on a media type restriction identified by the inviting mobile terminal."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Hendrey et al with Chandhok et al to include the above push-to-talk functionality and filter based on media-type restriction in order to take advantages of

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a PTT system, such as quickness and spontaneity without going through a typical dialing and ringing sequence and to allow a requester of a desired service to instantly get in touch with a local group of available providers for the desired service as suggested by Chandhok et al (see paragraphs 4 and 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey et al in view of Chandhok et al, and further in view of Fraccaroli (US006549768B1).

Regarding **claim 10**, the combination of Hendrey et al and Chandhok et al fails to disclose the presence server identifies local mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals in at least a portion of the same cell as the inviting mobile terminal.

In a similar field of endeavor, Fraccaroli discloses that when the handset registers into the base station, the ID of the handset can be sent to the MSC and formed into groups of mobile stations registered in the same base station. These groups of mobile station IDs can be sent to the HLR and its respectively collocated server to match and couple the profiles (see column 5, lines 4-11), which reads on the claimed, "the presence server identifies local mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals in at least a portion of the same cell as the inviting mobile terminal."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Hendrey et al and Chandhok et al with Fraccaroli to include the above grouping based on base station in order to provide an easy and effective way of locating mobile terminals.

Regarding **claim 18** the combination of Hendrey et al and Chandhok et al fails to disclose identifying local mobile terminals within a local area of the inviting mobile terminal comprises identifying local mobile terminals within at least a portion of the same cell as the inviting mobile terminal.

In a similar field of endeavor, Fraccaroli discloses that when the handset registers into the base station, the ID of the handset can be sent to the MSC and formed into groups of mobile stations registered in the same base station. These groups of mobile station IDs can be sent to the HLR and its respectively collocated server to match and couple the profiles (see column 5, lines 4-11), which reads on the claimed, "identify local mobile terminals within a local area of the inviting mobile terminal

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comprises...identify local mobile terminals within at least a portion of the same cell as the inviting mobile terminal."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Hendrey et al and Chandhok et al with Fraccaroli to include the above grouping based on base station in order to provide an easy and effective way of locating mobile terminals.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 and 37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J. Fox whose telephone number is (571) 272-7908. The examiner can normally be reached on Monday through Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bryan Fox  
July 13, 2006



**JOSEPH FEILD**  
**SUPERVISORY PATENT EXAMINER**